

and the Federal service for substantiated allegations of sexual abuse or violating agency sexual abuse policies.

(b) The agency shall review and approve policy and procedures regarding disciplinary or adverse action for staff and shall ensure that the policy and procedures specify disciplinary or adverse actions for staff, up to and including removal from their position and from the Federal service, when there is a substantiated allegation of sexual abuse, or when there has been a violation of agency sexual abuse rules, policies, or standards. Removal from their position and from the Federal service is the presumptive disciplinary sanction for staff who have engaged in or attempted or threatened to engage in sexual abuse, as defined under the definition of sexual abuse of a detainee by a staff member, contractor, or volunteer, paragraphs (1)–(4) and (7)–(8) of the definition of “sexual abuse of a detainee by a staff member, contractor, or volunteer” in § 115.6.

(c) Each facility shall report all removals or resignations in lieu of removal for violations of agency or facility sexual abuse policies to appropriate law enforcement agencies, unless the activity was clearly not criminal.

(d) Each agency shall make reasonable efforts to report removals or resignations in lieu of removal for violations of agency or facility sexual abuse policies to any relevant licensing bodies, to the extent known.

**§ 115.177 Corrective action for contractors and volunteers.**

(a) Any contractor or volunteer suspected of perpetrating sexual abuse shall be prohibited from contact with detainees. The agency shall also consider whether to prohibit further contact with detainees by contractors or volunteers who have not engaged in sexual abuse, but have violated other provisions within these standards. The agency shall be responsible for promptly reporting sexual abuse allegations and incidents involving alleged contractor or volunteer perpetrators to an appropriate law enforcement agency as well as to the Joint Intake Center or another appropriate DHS investigative office in accordance with DHS policies and procedures. The agency shall make

reasonable efforts to report to any relevant licensing body, to the extent known, incidents of substantiated sexual abuse by a contractor or volunteer.

(b) Contractors and volunteers suspected of perpetrating sexual abuse may be removed from all duties requiring detainee contact pending the outcome of an investigation, as appropriate.

**MEDICAL AND MENTAL CARE**

**§ 115.181 [Reserved]**

**§ 115.182 Access to emergency medical services.**

(a) Detainee victims of sexual abuse shall have timely, unimpeded access to emergency medical treatment and crisis intervention services, including emergency contraception and sexually transmitted infections prophylaxis, in accordance with professionally accepted standards of care.

(b) Emergency medical treatment services provided to the victim shall be without financial cost and regardless of whether the victim names the abuser or cooperates with any investigation arising out of the incident.

**DATA COLLECTION AND REVIEW**

**§ 115.186 Sexual abuse incident reviews.**

(a) The agency shall conduct a sexual abuse incident review at the conclusion of every investigation of sexual abuse and, where the allegation was not determined to be unfounded, prepare a written report recommending whether the allegation or investigation indicates that a change in policy or practice could better prevent, detect, or respond to sexual abuse. Such review shall ordinarily occur within 30 days of the agency receiving the investigation results from the investigative authority. The agency shall implement the recommendations for improvement, or shall document its reasons for not doing so in a written response. Both the report and response shall be forwarded to the agency PSA Coordinator.

(b) The agency shall conduct an annual review of all sexual abuse investigations and resulting incident reviews to assess and improve sexual

## **§ 115.187**

abuse intervention, prevention and response efforts.

### **§ 115.187 Data collection.**

(a) The agency shall maintain in a secure area all agency case records associated with claims of sexual abuse, in accordance with these standards and applicable agency policies, and in accordance with established schedules. The DHS Office of Inspector General shall maintain the official investigative file related to claims of sexual abuse investigated by the DHS Office of Inspector General.

(b) On an annual basis, the PSA Coordinator shall aggregate, in a manner that will facilitate the agency's ability to detect possible patterns and help prevent future incidents, the incident-based sexual abuse data available, including the number of reported sexual abuse allegations determined to be substantiated, unsubstantiated, or unfounded, or for which investigation is ongoing, and for each incident found to be substantiated, such information as is available to the PSA Coordinator concerning:

(1) The date, time, location, and nature of the incident;

(2) The demographic background of the victim and perpetrator (including citizenship, age, gender, and whether either has self-identified as gay, lesbian, bisexual, transgender, intersex, or gender nonconforming);

(3) The reporting timeline for the incident (including the name of individual who reported the incident, and the date and time the report was received);

(4) Any injuries sustained by the victim;

(5) Post-report follow up responses and action taken by the agency (e.g., supervision, referral for medical or mental health services, etc.); and

(6) Any sanctions imposed on the perpetrator.

(c) The agency shall maintain, review, and collect data as needed from all available agency records.

(d) Upon request, the agency shall provide all such data from the previous calendar year to the Office for Civil Rights and Civil Liberties no later than June 30.

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### **§ 115.188 Data review for corrective action.**

(a) The agency shall review data collected and aggregated pursuant to § 115.187 in order to assess and improve the effectiveness of its sexual abuse prevention, detection, and response policies, practices, and training, including by:

(1) Identifying problem areas;

(2) Taking corrective action on an ongoing basis; and

(3) Preparing an annual report of its findings and corrective actions for the agency as a whole.

(b) Such report shall include a comparison of the current year's data and corrective actions with those from prior years and shall provide an assessment of the agency's progress in preventing, detecting, and responding to sexual abuse.

(c) The agency's report shall be approved by the agency head and made readily available to the public through its Web site.

(d) The agency may redact specific material from the reports, when appropriate for safety or security, but must indicate the nature of the material redacted.

### **§ 115.189 Data storage, publication, and destruction.**

(a) The agency shall ensure that data collected pursuant to § 115.187 are securely retained in accordance with agency record retention policies and the agency protocol regarding investigation of allegations.

(b) The agency shall make all aggregated sexual abuse data from holding facilities under its direct control and from any private agencies with which it contracts available to the public at least annually on its Web site consistent with agency information disclosure policies and processes.

(c) Before making aggregated sexual abuse data publicly available, the agency shall remove all personal identifiers.

(d) The agency shall maintain sexual abuse data collected pursuant to § 115.187 for at least 10 years after the date of the initial collection unless Federal, State, or local law requires otherwise.